



ATTORNEY GENERAL OF TEXAS
GREG ABBOTT

August 9, 2011

Mr. Terry Jacobson
For City of Corsicana
Jacobson Law Firm
733 West Second Avenue
Corsicana, Texas 75110

OR2011-11485

Dear Mr. Jacobson:

You ask whether certain information is subject to required public disclosure under the Public Information Act (the "Act"), chapter 552 of the Government Code. Your request was assigned ID# 426332.

The City of Corsicana (the "city"), which you represent, received a request for e-mails and other correspondence between the city and GovQA and for any contract between the city and GovQA. You state the city has released some of the requested information. You claim the submitted information is excepted from disclosure under sections 552.101 and 552.110 of the Government Code.¹ You state the proprietary interests of GovQA, aka WebQA ("GovQA"), might be implicated. Accordingly, you notified GovQA of the request and of its right to submit arguments to this office explaining why its information should not be released. *See* Gov't Code § 552.305 (permitting interested third party to submit to attorney general reasons why requested information should not be released); *see also* Open Records Decision No. 542 (1990) (determining statutory predecessor to section 552.305 permits governmental body to rely on interested third party to raise and explain applicability of

¹ Although you also raise section 552.104 of the Government Code, you make no arguments to support this exception. Accordingly, we find the city has waived its claim under this exception. *See* Gov't Code § 552.301(e) (governmental body must provide comments stating why exceptions raised should apply to information requested).

exception in certain circumstances). We have considered the exceptions you claim and reviewed the submitted information.

Section 552.101 of the Government Code excepts from disclosure “information considered to be confidential by law, either constitutional, statutory, or by judicial decision.” Gov’t Code § 552.101. Although you raise section 552.101 in conjunction with section 552.305 of the Government Code, we note section 552.101 does not encompass other provisions of the Act. We further note section 552.305 is not an exception to disclosure under the Act. Rather, section 552.305 provides the procedural requirements for notifying third parties that their interests may be affected by a request for information. *See* Gov’t Code § 552.305. The city has not directed our attention to any confidentiality provision that would make any of the submitted information confidential under section 552.101. *See, e.g.*, Open Records Decision Nos. 611 at 1 (1992) (common-law privacy), 600 at 4 (1992) (constitutional privacy), 478 at 2 (1987) (statutory confidentiality). Therefore, the city may not withhold the submitted information under section 552.101 of the Government Code.

The city raises section 552.110 of the Government Code for the submitted information. We note section 552.110 is designed to protect the interests of third parties, such as GovQA, not the interests of a governmental body. Thus, we do not address the city’s arguments under section 552.110 of the Government Code.

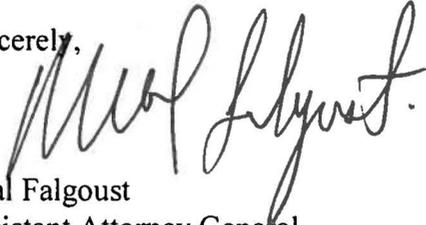
An interested third party is allowed ten business days after the date of its receipt of the governmental body’s notice to submit its reasons, if any, as to why information relating to that party should not be released. *See* Gov’t Code § 552.305(d)(2)(B). As of the date of this letter, we have not received arguments from GovQA. Thus, GovQA has not demonstrated it has a protected proprietary interest in any of the submitted information. *See id.* § 552.110(a)–(b); Open Records Decision Nos. 661 at 5–6 (1999) (to prevent disclosure of commercial or financial information, party must show by specific factual evidence, not conclusory or generalized allegations, that release of requested information would cause that party substantial competitive harm), 552 at 5 (1990) (party must establish *prima facie* case that information is trade secret), 542 at 3. Accordingly, the city may not withhold the submitted information on the basis of any proprietary interest GovQA may have in the information. Therefore, the submitted information must be released.

This letter ruling is limited to the particular information at issue in this request and limited to the facts as presented to us; therefore, this ruling must not be relied upon as a previous determination regarding any other information or any other circumstances.

This ruling triggers important deadlines regarding the rights and responsibilities of the governmental body and of the requestor. For more information concerning those rights and responsibilities, please visit our website at http://www.oag.state.tx.us/open/index_orl.php, or call the Office of the Attorney General’s Open Government Hotline, toll free, at (877) 673-6839. Questions concerning the allowable charges for providing public

information under the Act must be directed to the Cost Rules Administrator of the Office of the Attorney General, toll free at (888) 672-6787.

Sincerely,



Neal Falgoust
Assistant Attorney General
Open Records Division

NF/agn

Ref: ID# 426332

Enc. Submitted documents

c: Requestor
(w/o enclosures)

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